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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/781,698

02/13/2001

Lester Sussman

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EXAMINER

SHAAWAT, MUSSA A

ART UNIT

PAPER NUMBER

3627

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/781,698	<b>Applicant(s)</b> SUSSMAN, LESTER	
	<b>Examiner</b> MUSSA A. SHAAWAT	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-20, 34-46, 63 and 64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20, 34-46 and 63-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This action is in response to amendment filed on 02/19/2009. Claims 14 and 36 have been amended. Claims 1-13 and 21-33 have been previously cancelled. Claims 63-64 have been newly added. Claims 40, and 47-62 have been cancelled. Claims 14-20, 34-46 and 63-64 are pending examination.
2. The 112 2<sup>nd</sup> paragraph rejections have been withdrawn as a result of amended claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-20, 34-39, 41-46, and 63-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrovich et al, US PG Pub. No. (2003/0061113 A1) referred to hereinafter as Petrovich in view of Suzuki US Patent No. (6,129,274) referred to hereinafter as Suzuki in further view of Ruppert et al US Patent No. (5,424,524) referred to here in after as Ruppert.

As per claim 14, Petrovich teaches a method for creating a consumer's shopping list prior to entering a store, comprising *the steps of*:

- (a) *Using a portable barcode scanner* (see at least Para 0103);
- (b) scanning a needed product barcode or a needed product coupon barcode using said portable barcode scanner prior to entering a store (see at least Para 0103);

(c) using one or more consumer's first computers *comprising the sub-steps of*; receiving data from, and transmitting data to, said portable barcode scanner over said *consumer's* first network infrastructure (see at least Para 0103); storing said data in memory means on said first computer as a current shopping list under control of each said product barcode or each said product coupon barcode (see at least Para 0103-0109, 0118); communicating with a second computer system using said first computer, over a second network infrastructure to request and to receive information based on said product barcode or said product coupon barcode (see at least Para 0118 0103-0109); displaying a multiplicity of product barcodes or said product coupon barcodes, together with additional shopping list information, on said consumer's first computer display (see at least 0088, claim 78); indicating on said first computer display that said consumer has obtained said shopping list information in-hand from said consumer's first computer (see at least Para 0103-0109); and indicating that said data transmitted to and said data received from said portable barcode scanner has been successfully sent and received (see at least Para 0103-0109);

(d) Transferring said scanned product barcode or said product coupon barcode to said consumer's first computer, over said first network infrastructure ((see at least Para 0118, 0103-0109));

(e) Storing said transferred product barcode or said product coupon barcode in a shopping list database on said consumer's first computer, said shopping list database includes other product information (see at least Para 0012, 0020, 0068);

(f) Obtaining in-hand said stored shopping list from said consumer's first computer in order to go to a first store and purchase products listed on said shopping list, said obtaining in-hand is selected from the group comprising: printing said stored shopping list on a printing device attached to said consumer's first computer (see at least Para 0005), transferring said stored shopping list to a consumer's portable computer device, and using said portable barcode scanner (see at least Para 0012, 0016, 0017, 0103-0109).

Although Petrovich teaches wherein the home computer includes a price lookup table, a prior shopping lists or other scanning data for ordering and other functionality, Petrovich does not expressly teach collecting and storing a multiplicity of said dates and times that each said product barcode has been scanned by said portable barcode scanner and stored in said first computer memory means; wherein said collecting and storing of said multiplicity of dates and times providing a means to learn said consumer's rate of consumption of each said product; wherein said means of learning said consumer's rate of consumption of each said product is a consumption tracking frequency of each said product; said consumption tracking frequency of each said product providing a means to predict when each said product needs to be replaced; *providing a specific notification of previous shopping list information stored in said first computer's memory without needing a current scanned entry of one or ore barcodes associated with said previous shopping list information, means to predict when each said product needs to be replaced; adding automatically a list of one or more products stored in said previous shopping list information to said current shopping list*

*commensurate with said means to predict when each said product needs to be replaced at said date and time of creating said current shopping list.*

However Suzuki teaches wherein the processor based on customer's shopping history information (i.e. previous shopping list) is able to make purchase recommendations for replenishment items by analyzing the last purchase date of a necessity item from the shopping history (i.e. tracking frequency and providing notification of previous shopping list information stored in memory). For example the processor determines that a substantial period of time had past since the customer last purchased necessities such as milk, butter, eggs, and the like. Accordingly the processor would display a replenishment item recommendation list to the customer (i.e. adding automatically list of one or more products stored...) (see at least col. 14 lines 1-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Suzuki to the disclosure of Petrovich in order to remind the customer to refill or replenish frequently needed items such as milk eggs etc.

Both Petrovich nor Suzuki does not teach wherein said other product information includes: a product description, a product cost, and an indicator for a required quantity of said product, date and time. However Ruppert teaches wherein said other product information includes: a product description, a product cost, and an indicator for a required quantity of said product. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the disclosure of Petrovich in view of Suzuki to include the time and date of when the barcode was scanned, in order to

create an efficient shopping list for the customer. In addition, the recording the date and time of when barcode was scanned is well known and old in the art at the time the invention was made as stated in the previous action, and is admitted prior art since applicant failed to properly traverse the Official notice in the previous action. Same motivation as above

In addition, Petrovich, Suzuki and Ruppert do not expressly teach a date and time indicative of when each said product barcode or each said product coupon was scanned by said portable barcode scanner. However, the examiner takes Official Notice that associating a time stamp to a scanned barcode or to a data to be stored is old and well known in the art at the time the invention was made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Official Notice into the disclosure of Petrovich in view of Suzuki and in further view of Ruppert in order to effectively track the items scanned by a user.

As per claim 15, Petrovich teaches a portable barcode scanner of claim 14, wherein said first network infrastructure is *a wireless link between said portable barcode scanner and said consumer's first, computer, wherein said wireless link is selected from the group comprising: an infrared link and a Bluetooth-enabled radio frequency link*(see at least Para 0067, 0114 and 0060). In addition Official notice was taken in the previous action that radio frequency using Bluetooth technology is well known and old in the art, since applicant failed to properly traverse the Official notice it becomes admitted prior art by applicant as stated in the previous action..

As per claim 16 and 38, Petrovich teaches a method for creating a consumer's shopping list of claim 14, comprising an optional step of either; (a) Sending said current shopping list information from said consumer's first computer to an optional second store connected to said second network infrastructure, said second store shipping products listed on said shopping list to said consumer, thereby not requiring said consumer to shop in-store for said products, (see at least Para 0005, 0103-0109); and (b) Sending said current shopping list information from said consumer's first computer to an optional second store connected to said second network infrastructure, said second store making said products listed on said current shopping list information available to said consumer for pick up, (0103-0109).

As per claim 17, Petrovich teaches a portable barcode scanner of claim 14, wherein said first network infrastructure is a wired link between said portable barcode scanner and said consumer's first computer (see at least Para 0067).

As per claim 18, Petrovich teaches a portable barcode scanner of claim 17, wherein said wired link is selected from the group comprising: an RS-232 link, a USB link, a parallel link and an IEEE 1394 link (see at least Para 0132).

As per claim 19, Petrovich teaches a first computer of claim 14 is selected from the group comprising: a personal computer, a personal digital assistant, an Internet appliance, and a cell phone (see at least Abstract, Para 0012-0017).

As per claim 34, Ruppert teaches the portable computer device of claim 14 is selected from the group consisting: a personal digital assistant and a cell phone (see at least Abstract, Para 0012-0017).



As per claim 35, Rupert teaches a shopping list of claim 14 is selected from the group comprising: beauty aids, books, clothing, computer hardware, computer software, computer supplies, drugs, footwear, groceries, gifts, health aids and music (see at least Para 0060 or 0103).

As per claims 20 and 42, Petrovich teaches wherein said second network infrastructure is the internet (see at least Para 0014-0016, 0060).

5. As per claims 36-37, 39, 41, 43-46 and 63-64, the limitations of claims 36-37, 39-41, 43-46 and 63-64, are similar to the limitations of claims 14-15, 17-19, and 34-35; therefore they are rejected under the same rationale.

### ***Response to Arguments***

6. Applicant's arguments with respect have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form 892 for cited references.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSSA A. SHAAWAT whose telephone number is (571)272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mussa A Shaawat/  
Examiner, Art Unit 3627  
April 28, 2009

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627